

No. PD-748-17

KELSEY JO LACKEY

v.

THE STATE OF TEXAS

§
§
§
§
§

IN THE COURT OF
COURT OF CRIMINAL APPEALS
2/9/2018
DEANA WILLIAMSON, CLERK
CRIMINAL APPEALS
OF TEXAS

MOTION FOR LEAVE TO FILE
APPELLANT'S REPLY BRIEF

COMES NOW Kelsey Jo Lackey, Appellant in the above-styled and numbered cause, and makes and files this Motion for Leave to file an Appellant's Reply Brief, and in support thereof shows the Court as follows:

I.

Appellant's filed the Appellant's Brief on December 4, 2017. The State filed its own brief on January 19, 2018. Since then a dispute has arisen between the parties about the appellate record. The Court has set this matter for oral argument on March 7, 2018.

II.

Appellant requests leave of Court to file a Reply Brief for three reasons: (1) Appellant desires to present additional argument and authority relevant to the parties' dispute about whether the reporter's record should be filed with this Court; (2) Appellant desires to clarify matters regarding

discrepancies in the clerk's record and the need for further supplementation of the clerk's record; and (3) Appellant desires to respond to the arguments made by the State in its brief.

Appellant would not oppose the Court granting the State (or the State Prosecuting Attorney) leave to file a brief in response to his Reply Brief.

III.

Rule of Appellate Procedure 70 does not expressly provide for the filing of an appellant's reply brief. But Rule 70.4 authorizes this Court to permit the filing of an "additional" brief "upon motion by a party." TEX. R. APP. P. 70.4. Therefore, in accordance with Rule 70.4 Appellants request leave of Court to file a Reply Brief.

Appellant is submitting his Reply Brief contemporaneously with this Motion.

WHEREFORE, PREMISES CONSIDERED, Appellant requests that the Court grant leave to file a reply brief and such other and further relief to which he may show himself justly entitled.

Respectfully submitted,

/s/ Alan Bennett

E. Alan Bennett

SBOT #02140700

Attorney for Appellant

Sheehy, Lovelace & Mayfield, P.C.

510 N. Valley Mills Dr., Ste. 500

Waco, TX 76710

Telephone: (254) 772-8022

Fax: (254) 772-9297

Email: abennett@slm.law

Certificate of Service

The undersigned hereby certifies that a true and correct copy of this document has been served electronically on February 8, 2018 to: (1) counsel for the State, Douglas Howell, III, dhowell@brazoscountytexas.gov; and (2) the State Prosecuting Attorney, information@SPA.texas.gov.

/s/ Alan Bennett

E. Alan Bennett